

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
Case No. 3:17-CV-00652

SNYDER'S-LANCE, INC. and
PRINCETON VANGUARD, LLC,

Plaintiffs,

v.

FRITO-LAY NORTH AMERICA,
INC.,

Defendant.

CERTIFICATION AND REPORT OF
F.R.C.P. 26(f) CONFERENCE AND
DISCOVERY PLAN

1. Certification of Conference. Pursuant to Fed. R. Civ. P. 26(f) and Local Civil Rule 16.1(a), a meeting was held on September 11, 2018 by telephone and was conducted by the undersigned counsel for the designated parties in the above-captioned case.

2. Pre-Discovery Disclosures. The parties stipulate out of the mandatory initial disclosure procedure under Fed. R. Civ. P. 26(a)(1).

3. Discovery Plan. The Court has previously admitted the Record of the Trademark Trial and Appeal Board [D.E. 17]. The only additional discovery the parties believe may be necessary will be limited to that which is directly related to, and necessary to evaluate, any declarations and accompanying exhibits to their respective dispositive motions. The parties do not otherwise intend to issue any additional discovery requests in this case. As set forth in paragraphs 4(a) and 4(b) below, the parties request an opportunity to discuss with the Court the plan for any such discovery—should it be necessary—as part of an Initial Pretrial Conference before entry of a Scheduling Order.

4. Other Items.

(a) The parties request an Initial Pretrial Conference with the Court before entry of the Scheduling Order.

(b) Defendant filed a motion for summary judgment on August 30, 2018. Pursuant to the Court's September 13, 2018 Order [D.E. 30], Plaintiffs shall have up to and including October 29, 2018 to file their opposition to Defendant's motion. Defendant shall have up to and including November 12, 2018 to file a reply.

Any additional potentially dispositive motions shall be filed on or before October 29, 2018.

(c) The parties do not believe that settlement is likely, or that use of ADR procedures would enhance the prospects of settlement.

(d) Subject to their review of any newly submitted evidence, the parties have discussed the possibility of stipulating to a record such that they could present the case to the Court to decide any genuine dispute as to any material facts on the papers without the need for a trial. The parties intend to discuss this possibility further at the close of briefing on the parties' respective motions for summary judgment.

(f) The parties have discussed the issue of consent to the jurisdiction of a U.S. magistrate judge.

Respectfully submitted this the 18th day of September, 2018.

s/ Alexander M. Pearce

Jonathan D. Sasser
N.C. State Bar No. 10028
Alexander M. Pearce
N.C. State Bar No. 37208
ELLIS & WINTERS LLP
Post Office Box 33550
Raleigh, North Carolina 27636
Telephone: (919) 865-7000
jon.sasser@elliswinters.com
alex.pearce@elliswinters.com

David H. Bernstein*
James J. Pastore*
Jared I. Kagan*
Michael C. McGregor*
DEBEVOISE & PLIMPTON LLP
919 Third Avenue
New York, New York 10022
Telephone: (212) 909-6000
dhbernstein@debevoise.com
jjpastore@debevoise.com
jikagan@debevoise.com
mcmcgregor@debevoise.com

ATTORNEYS FOR PLAINTIFFS
SNYDER'S-LANCE, INC. AND
PRINCETON VANGUARD, LLC

*Admitted *pro hac vice*

s/ David E. Armendariz

Alice C. Richey
N.C. State Bar No.: 13677
ALEXANDER RICKS PLLC
4601 Park Road, Suite 580
Charlotte, North Carolina 28209
Telephone: (980) 335-0720
Facsimile: (704) 365-3676
alice@alexanderricks.com

William G. Barber*
Texas State Bar No. 01713050
Email: bbarber@pirkeybarber.com
David E. Armendariz*
Texas State Bar No. 24082636
Email: darmendariz@pirkeybarber.com
PIRKEY BARBER PLLC
600 Congress Avenue, Suite 2120
Austin, TX 78701
(512) 322-5200
(512) 322-5201 (Fax)

ATTORNEYS FOR FRITO-LAY NORTH
AMERICA, INC.

*Admitted *pro hac vice*

CERTIFICATE OF SERVICE

I do certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record or interested parties via the CM/ECF system.

This 18th day of September, 2018.

s/ Alexander M. Pearce
Alexander M. Pearce
N.C. State Bar No. 37208
ELLIS & WINTERS LLP
Post Office Box 33550
Raleigh, North Carolina 27636
Telephone: (919) 865-7000
alex.pearce@elliswinters.com